

FILED

BOOK 158 PAGE 1275

DEC 20 1996

IN THE BOARD OF COMMISSIONERS
OF LANE COUNTY OREGON

COUNTY CLERK

BY Peggy Wood

ORDER 96-12-18-1

In the Matter of the Request of the Housing Authority and Community Services Agency (HACSA) for an Exemption to Use the Construction Management/General Contractor (CM/GC) Method to Obtain Construction Services.

WHEREAS, the Lane County Board of Commissioners has adopted the Lane Manual (Ch. 20.100) which governs exemption requests to use the Construction Manager/General Contractor method of public contracting;

WHEREAS, the granting of such a request requires that the Board, as the local contract review body, examine Findings of Fact that justify the granting of such an exemption;

WHEREAS, the applicant --- the Housing Authority and Community Services Agency --- has submitted the following findings:

Findings

A. Nature of the Project

The Lane County Housing Authority and Community Services Agency (HACSA) is developing the Jacobs Lane Housing Project, a low-income housing development. To be sited on a 4.75 acre site in the Highway 99 area of Eugene, the project will contain approximately 11 studio, 22, one-bedroom, 20 two-bedroom, and 10 three-bedroom units. In addition, the project includes a community building to serve its residents.

Jacobs Lane is intended to serve low-income households and individuals with incomes less than 50 percent of median (e.g., family of four, \$18,200). At least four of these units will be used as transitional housing for homeless individuals referred from the local emergency shelter system.

B. Estimated Cost of the Project

The estimated resources for construction of the Jacobs Lane project is estimated at \$3,100,000.

C. Narrative Description of Anticipated Cost Savings by Exemption from Competitive Bidding and Reasons Competitive Bidding Would be Inappropriate

Jacobs Lane project is an affordable housing project that is privately financed and not funded by the Department of Housing and Urban Development. The proposed financing package consists of \$925,000 in permanent financing, a site provided by the City of Eugene, and approximately \$2,690,000 in proceeds from the sale of federal low-income tax credits.

Because of this financial package, the total project cost is fixed. Because of the target population, the rents that can be charged are limited and cannot support additional financing. As a result, the design of the housing must occur so that construction can occur within the budget. Given these budgetary restrictions, the traditional method of formulating a design and then receiving bids from

general contractors does not provide adequate budgetary control for a low-income, public-private financed residential project.

Provisions of the funding used in site purchase require that construction begin within two years after the award of the federal low-income housing tax-credits. If sealed price bids are higher than the project budget, delays induced by re-design and re-bidding may endanger the project. It is important to eliminate the possibility of significant delay that will occur if bids come in higher than budget and re-design and re-bidding are necessary.

The exigencies of the private financing sources, particularly the equity contribution through the use of federal low-income housing tax credits, greatly increases risk to project development if the construction manager/general contractor method is not used. During development, HACSA must obtain financial commitments which are based on HACSA's cost of the construction. Because bidding does not occur until shortly before construction begins, HACSA assumes the risk that if the bid is not within budget, these financial commitments will expire before the project can be re-designed and re-bid. Given the high level of expense associated with these commitments, it is important to eliminate this risk.

Consequently, not only does a traditional approach risk the possibility that the targeted rents will not be met, but it also threatens project financing required in the development of low-income housing. The specialized skill and coordination that can be achieved through use of a Construction Manager/General Contractor are needed to complete this project according to the estimated construction cost outlined above. A CM/GC approach and guaranteed maximum fee at the start of the project are, in the opinion of HACSA staff, the only way to insure that the project will be built within budget and will stay on schedule. Under an alternative, more conventional process, high bids at any one of the different bidding phases could substantially affect the total cost and schedule.

D. Proposed Alternative Contracting and Purchasing Practices

1. HACSA proposes to select the Construction Manager/General Contractor using the following competitive process:
 - a. HACSA will publicly advertise a Request for Proposals to local general contracting and construction management firms.
 - b. A committee made of three HACSA staff will select at least three construction management firms from the responses to the Request for Proposals for formal interviews. Each member of the committee will have an equal vote.
 - c. The committee will rate and rank the firms and provide a recommendation to the Executive Director of HACSA. Interviews will be conducted if necessary.
 - d. The Executive Director will attempt to negotiate a contract with the top-ranked firm. If negotiations are not successful within one week, the Executive will then negotiate with the second-ranked firm, and so forth.
2. In the operation phase, the CM/GC will be required to publicly advertise and obtain at least three (3) bids for every sub-contract. All subcontractor bids will be required to be written and submitted to a specific location at a specific time. The CM/GC will be required to obtain approval in writing from HACSA whenever it:
 - a. Cannot obtain three (3) acceptable bids; or
 - b. Prefers to select a bid other than the low-bidder.

3. HACSA will participate in the planning and design process to insure that schedule and budget are achieved in a timely manner.
4. Under the CM/GC form of contracting, the CM/GC firm is hired at the beginning of the project to assist with design considerations, administrative coordination, scheduling, budget estimating, constructability review, and value engineering. The CM/GC provides these management services, as well as management of the construction, for a negotiated fee. In addition, the CM/GC provides, during the design process, a guaranteed maximum price (GMP) for the full value of the construction, backed up by a full performance and payment bond.

E. Summary of Findings.

1. **Conclusions** - The Board of Commissioners, sitting as the local contract review board, hereby finds:

- a. It is unlikely the exemption will encourage favoritism or substantially diminish competition.

This process will not involve favoritism nor diminish competition. The selection process for the Construction Manager/General Contractor will be done in a competitive manner in accordance with a qualifications-based selection process. This evaluation will be impartial. Public notification will occur, and firms that have previously contracted with HACSA have been notified. The subcontracting process is subject to competition as well.

- b. The exemption will result in substantial cost savings to HACSA.

The form of design development/construction proposed under this arrangement necessitates the architect and contractor working together to minimize cost. The CM/GC will obtain an early understanding of HACSA's needs, the architect's design intent, the specific circumstances of the project, and the scope of the project (including operational needs) by participating in the design process. With the benefit of this knowledge, the CM/GC will be able to provide an early contractual guarantee of the total cost.

Conversely, under the design-bid-build method, bids are developed by contractors without the benefit of the bidders participating in design. At the close of the bid period, there is no assurance that the project will be within the project budget. Given the parameters of Jacobs Lane funding sources, time for redesign and re-bid is not practical.

Involving the contractor throughout the design phase results in the need for fewer change orders. For example, for projects with a GMP, HACSA will need to carry only one-half of the construction contingency that is normally established for a comparable design-bid-build project (10%). Consequently, it can be assumed that 5% of the initial construction cost will be included within the bids rather than being added through change orders. Change orders are far more expensive to HACSA than work included within the original bidding. Conservatively, change orders cost approximately 25% more than if included in the original bid. As a result, an additional potential savings of 25% of 5% of the original construction cost of approximately \$1,030,000 can be estimated at \$12,875.

Change orders to the scope of work also cost HACSA less because the CM/GC only charges its negotiated fee percentage (typically in the 4% - 6% range) instead of the industry standard of 15%.

Due to the CM/GC's active construction management role, and early involvement in the project, most CM/GC jobs finish with an actual cost less than the GMP. Should there be such savings, these are returned to HACSA for additional improvements. It is not uncommon to find typical savings running on the order of 1% - 2% of the GMP to as high as 10%.

Finally, using a CM/GC establishes the cost to HACSA, thereby ensuring that the project can be built within budget.

2. Summary

- a. The Lane County Intergovernmental Housing Policy Board has identified an urgent need for additional low-cost affordable rental housing due to the critical shortage of rental housing units to house low-income households in Lane County.
- b. The City of Eugene Comprehensive Housing Affordability Strategy has outlined the need and the urgency to construct additional low-income housing.
- c. The use of federal low-income housing tax-credits requires a firm construction timeline.
- d. Permanent financing requires a fixed total project cost.
- e. The conventional process for development of projects of this type typically allow for a longer total planning-design-construction period than that required for this project.
- f. After consulting with architects, contractors and other professional in the construction trades, it was suggested that the project might best be completed utilizing a Construction Manager/General Contractor (CM/GC).
- g. The rationale for the above is that specialized skill and coordination are needed to complete this project according to the specifications developed and within the necessary budgetary constraints.
- h. It is the belief of HACSA staff and professionals in the construction trades that the Construction Manager approach will result in the completion of the project within the cost parameters.

NOW, THEREFORE, sitting as the local contract review board, the Board hereby orders that:

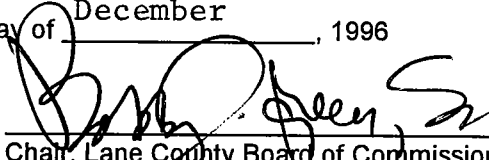
An exemption is granted for the Housing Authority and Community Services Agency (HACSA) to construct the Jacobs Lane Low-income Housing Development utilizing a Construction Manager/General Contractor (CM/GC) form acquired through the process set forth in the "CM/GC Request for Proposals" (in a form substantially similar to Attachment 1 and hereby incorporated by this reference). This exemption is subject to the following conditions:

1. The process will include the GM/GC soliciting bids from subcontractors, making a decision, usually based upon cost, and having that decision approved by HACSA.
2. When a subcontractor price other than the low price is selected by the CM/GC, the choice must be justified to the satisfaction of HACSA.

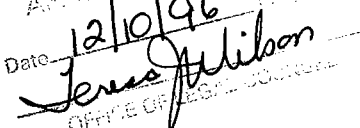
3. Where there are single fabricators of materials, special packaging requirements for subcontractor work or work to be performed by the GM/GC at other than the low price, advance approval by HACSA is required.
4. The CM/GC should attempt to get at least three bids for the particular work to be done. The solicitations of subcontractors will be made pursuant to the following procedures:
 - a. All bids will be required to be written and submitted to a specific location at a specific time.
 - b. If less than three (3) bids are submitted, approval by HACSA is required to accept the bid.
 - c. Solicitations will be advertised at least ten (10) days in advance in newspapers of record and using an advertising process approved by HACSA.

This exemption shall remain in effect until the project is complete.

DATED this 18th day of December, 1996



Chair, Lane County Board of Commissioners

APPROVED AS TO FORM
Date 12/10/96

OFFICE OF LEGAL COUNSEL

Attachment 1

Draft Request for Proposals

DRAFT

HOUSING AUTHORITY & COMMUNITY SERVICES AGENCY
177 DAY ISLAND ROAD
EUGENE, OREGON 97401

REQUEST FOR PROPOSALS

**Jacobs Lane Affordable Housing Development
Construction Management/General Contracting Services**

ISSUES Immediately
CLOSES xxxxxxxxxxxx

INTRODUCTION

The Housing Authority and Community Services Agency of Lane County (HACSA, Agency) is seeking proposals from qualified individuals and firms to provide professional construction management/general services for the pre-construction and construction phases of the development of approximately 63 units of low-income housing. It is the intention of HACSA to enter into a contract with the selected Construction Manager/General Contractor (CM/GC) which will include a Fixed Fee and a Guaranteed Maximum Price for the entire scope of the work. Construction Managers/General Contractors responding to this request will be evaluated on qualifications, prior experience in multi-family and low-income housing, demonstrated potential for entering into a negotiated contract with Guaranteed Maximum Price, and successfully completing multi-family projects in the \$1,200,000 to \$3,500,000 range. Interested firms and individuals are invited to submit proposals in accordance with the requirements described below.

No Pre-Proposal Conference will be held for this proposal. Requests for additional information should be directed towards Daniel Paddock (541) 682-2535 or James R. McCoy (541) 683-2530 at the Lane County Housing Authority and Community Services Agency (HACSA).

PROJECT DESCRIPTION AND BACKGROUND

HACSA is intending to develop a 4.75 acre vacant site located between Jacobs Drive and Highway 99. HACSA's preliminary program for this project includes 11 studio, 22 one-bedroom, 20 two-bedroom, and 10 three-bedroom units. In addition, the project includes a community building to serve its residents. A preliminary site plan is attached to this Request for Proposals.

This program is subject to modification. Approximately \$x,xxx,xxx is anticipated as the construction cost of the project including foundations, site-work, parking, lighting, and landscaping. The Construction Manager/General Contractor fee is incorporated within this budget.

SELECTION PROCESS

HACSA will carry out the following process to rate proposals and negotiate an agreement for professional services:

1. Written proposals submitted in accordance with this RFP will be evaluated by a committee of HACSA

staff.

2. The committee will rate the proposals according to the selection criteria outlined below and select three top firms. Interviews will be held to make a final selection and recommendation.
3. Based on the ratings of the written proposals and interviews, the committee will recommend to the HACSA Executive Director a ranked list of prospective consultants that meet the qualifications described in this RFP.
4. A professional services agreement will be negotiated with the top ranked firm. If an agreement cannot be reached with the top ranked firm, HACSA will then negotiate with the second ranked firm.

CRITERIA FOR SELECTION

HACSA will use the following review criteria in evaluating the proposals. HACSA reserves the right to reject all proposals or request clarification of proposals during analysis, selection, and award proceedings.

1. **Experience with Multi-family Residential Construction.** (30 points).
2. **Experience with Low-income Housing.** (15 points)
3. **In-house Estimating Capabilities.** (20 points)
4. **Qualifications of Proposed Personnel.** (20 points)
5. **Fee Proposal** (5 points)

Proposers may comment on any of the specifications of this RFP which they believe limit competition. Comments must be in writing and received at the HACSA office at least five working days before the filing deadline. Comments will be reviewed by HACSA staff. If the comments are determined to be valid, an addenda to the RFP will be issued to all applicants.

PROPOSAL FORMAT

Every respondent must address each of the following items. Straightforward responses are encouraged. Please provide three copies of your submittal in an 8 1/2 x 11 format.

1. Describe briefly your firm/individual overall construction capabilities.
2. Provide a listing of projects of similar size or type and complexity. Include current references.
3. Describe your experience with negotiated work involving Guaranteed Maximum Price agreements. List all such projects including value of Guaranteed Maximum Price. Discuss experience, if any, with Construction Management contracts involving public agencies.
4. Provide a resume(s) for those proposed to work on this project.
5. Describe how you would provide estimating and value-engineering services. Identify the personnel who would participate during project design and value engineering.
6. Please state a range of fees as a percentage of total contract cost that your firm would require to perform the tasks described in the Scope of Services below.

7. Provide references, including architectural firms, with which you have worked within the past three years.

SCOPE OF CONSTRUCTION MANAGEMENT/GENERAL CONTRACTOR SERVICES DESIRED

Objective

It is the Agency's objective to construct approximately 63 units of low-income housing of the highest quality possible within existing budget constraints.

Scope of Work

HACSA is seeking a Construction Management/General Contractor (CM/GC) to coordinate and manage the building process as a member of a team with the Owner, Architect and other project consultants. The CM/GC should be skilled in developing schedules, preparing construction estimates, performing value engineering, analyzing alternative designs, studying labor conditions, understanding construction methods and techniques, and coordinating and communicating the activities of the Team throughout the design and construction phases to all members of the construction team. In addition, the CM/GC must be familiar with the local labor and sub-contracting market, be capable of working with sub-contractors to generate viable pricing alternatives, and possess experience in working with public sector construction and public contract laws. Finally, the CM/GC must be knowledgeable and experienced in the low-cost residential construction.

The Agency will contract with the individual or firm to obtain CM/GC Services in cooperation with the services of the project Architect for the Pre-Construction Phase and the Construction Phase of this project. Prospective applicants should note that it is HACSA's intent that the CM/GC shall competitively select other contractors and subcontractors to perform the work of the improvement.

Within the Scope of Work outlined below, the firm/individual will be responsible for the following:

A. PRE-CONSTRUCTION PHASE

1. Provide preliminary evaluation of the program and project budget requirements. Work with Project Architect to prepare preliminary estimates of construction cost for early schematic designs based on area, volume, or other standards. Provide cost evaluations of alternative materials and systems.
2. Work with HACSA during design to advise on site and improvements, selection of materials, building systems and equipment, and methods of project delivery. Provide recommendations on relative feasibility of construction methods, availability of materials and labor, time requirements for procurement, installation and construction.
3. Prepare detailed estimate of construction cost based on schematic design documents prepared by the Architect. Update and refine this estimate as necessary. Advise HACSA if it appears that construction cost may exceed the project budget and make recommendations for corrective action.
4. Advise on the separation of the project in contracts for various categories of work. If separate contracts are to be awarded, review the drawings and specifications and make recommendations to provide that (a) the work of the separate contractors is coordinated; (b) all requirements for the project have been assigned to the appropriate separate contract; (c) the likelihood of jurisdictional disputes has been minimized.
5. Develop a project construction schedule. Analyze and recommend a schedule for HACSA

purchase of materials and equipment requiring lead time procurement. Expedite and coordinate delivery of these purchases as necessary.

- 6. Develop bidders' interest in the project. Establish bidding schedules and issue bidding documents to subcontractor bidders. Conduct pre-bid conferences if necessary.
- 7. Receive bids and analyze bids.

B. CONSTRUCTION PHASE

- 1. Administer contract documents and coordinate work of the contractors with each other in accordance with HACSA's objectives of cost, time and quality.
- 2. Schedule and conduct pre-construction, construction and progress meetings as necessary.
- 3. Endeavor to achieve satisfactory performance from each of the sub-contractors.
- 4. Recommend necessary or desirable changes to HACSA, review requests for changes, assist in negotiating sub-contractors' proposals, and prepare and sign change orders for HACSA and Architect authorization.
- 5. Submit written progress reports to HACSA and maintain project log.
- 6. Evaluate completion of work with Architect.

TIMING

The following time line is contingent upon governmental approval to appropriate the funding necessary to complete the project.

Close RFP	
Award Contract	
Pre-Construction Phase	To be determined.
Construction Phase Begins	To be determined.

SUBMITTING A PROPOSAL

Proposals shall be marked "RFP: Jacobs Lane, Attn: James R. McCoy," and must be received at the HACSA office, 177 Day Island Road, Eugene, Oregon 97401 by 5:00 p.m., xxxxxx, 1996.

The cost of submittals and any related expenses shall be entirely the responsibility of the respondent. HACSA reserves the right to not select any proposal at this time. Comments or complaints about the selection process or evaluation criteria may be referred to Chris Todis, Executive Director of the Housing Authority, 687-3755. Comments or complaints about award of contract may be addressed to Chair, Lane County Housing Authority Board of Directors, 177 Day Island Road, Eugene, Oregon 97402.

Any question regarding the RFP, Scope of Work, or selection criteria may be addressed to James R. McCoy, (541) 682-2530.